

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JOSEPH MCDONALD,

Petitioner,

v.

CV 09-0022 MV/LAM

JAMES JANECKA,

Respondent.

ORDER

The Court having entertained Petitioner Joseph McDonald's *Petition for a Writ of Habeas Corpus* (Doc. 5), filed on March 16, 2009, pursuant to 28 U.S.C. § 2254, and the Court having determined that the petition may not be subject to summary dismissal,

IT IS THEREFORE ORDERED that *Petitioner's Motion for an Extension of Time to File Petition* (Doc. 4), filed on February 19, 2009, is **DENIED as moot**;

IT IS FURTHER ORDERED that Respondent shall answer said *Petition for a Writ of Habeas Corpus* (Doc. 5) within thirty (30) days from the date of service of this Order. Respondent's answer shall advise, but is not limited to, whether Petitioner has exhausted his state court remedies as to the issues raised in the federal petition. In each case, Respondent shall attach to its answer copies of any pleading pertinent to the issue of exhaustion which was filed by Petitioner in the sentencing court, the state district court, the state court of appeals and the state supreme court, together with copies of all memoranda filed by both parties in support of, or in response to, those pleadings. Respondent shall also attach to the answer copies of all state court findings and conclusions, docketing statements and opinions issued in Petitioner's state court post-

conviction or appellate proceedings. In the event Respondent denies exhaustion, Respondent shall identify the State procedures currently available to Petitioner given the nature of Petitioner's claims and their procedural history.

IT IS FURTHER ORDERED that until such time as Petitioner may be represented by counsel, the Clerk of the Court shall forward to Petitioner a copy of this Order and any subsequent orders filed in this proceeding.

IT IS SO ORDERED.



LOURDES A. MARTÍNEZ
UNITED STATES MAGISTRATE JUDGE